

REMARKS

The February 7, 2005 Office Action was based on Claims 1-21. The amendment amends Claims 1, 3, 5, 7, 8, 12, 13, 14, 17, 18, 19, and 21, cancels Claim 10, and adds new Claim 22. Thus, after entry of this amendment, Claims 1-9 and 11-22 are pending and presented for further consideration.

In the February 7, 2005 Office Action, the Examiner rejected Claims 1-21. In particular, the Examiner objected to the specification and the abstract. Further, the Examiner the Examiner objected to Claims 1-4, 10, 11, 13, 17, 18, 19, 20, and 21 due to informalities.

Further, the Examiner rejected Claims 12-14 and 17-20 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,604,889 ("the Erickson patent").

The Examiner further rejected Claims 1-4 and 6-11 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,649,907 (" the Whitehead et al. patent") in view of U.S. Patent No. 5,897,555 ("the Clyburn et al. patent"). The Examiner further rejected Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over the Whitehead et al. patent in view of the Clyburn et al. patent, and further in view of U.S. Patent No. 6,786,882 ("the Slishman patent"). The Examiner further rejected Claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over the Erickson patent in view of the Clyburn et al patent. The Examiner further rejected Claim 21 under 35 U.S.C. § 103(a) as being unpatentable over the Erickson patent in view of U.S. Patent No. 6,045,525 ("the Chitwood patent"). Reconsideration of the pending claims, as amended, is respectfully requested.

THE ABSTRACT

The Examiner objected to the abstract as being too short. In response, Applicants have amended the abstract to conform to the required length. Applicants respectfully submit that no new matter is being introduced by way of this Amendment and requests that the foregoing Amendment to the abstract be entered and made of record. The amended abstract is the abstract from U.S. Provisional Patent No. 60/422,453, the entirety of which is incorporated in U.S. Patent Application No. 10/764,123 by reference.

THE SPECIFICATION

The Examiner objected to the format of the trademark VELCRO® in the specification. In response, Applicants have replaced “Velcro” with “VELCRO® or other hook and loop fabric fastener” throughout the specification.

Further, the Examiner objected to the specification because the first paragraph on page 5 ends mid-sentence. In response, Applicants have added the phrase “other suitable telescopic locking means.” in order to complete the sentence. Applicants respectfully submit that no new matter is being introduced by way of this Amendment and requests that the foregoing Amendment to the specification be entered and made of record.

Applicants have added text to the specification, starting on page 12, line 25 from U.S. Provisional Patent No. 60/422,453 at page 7 lines 18-21, page 8 lines 14-23, page 9 line 19 through page 10 line 12, page 9 lines 1-18, page 10 lines 13-16, and page 10 line 17 through line 2; and starting on page 17, line 5 from U.S. Provisional Patent No. 60/422,453, at page 34 line 23 through page 35 line 13. U.S. Provisional Patent No. 60/422,453 was incorporated in its entirety in U.S. Patent Application No. 10/764,123. The added text further clarifies features of the Applicants’ invention. Applicants respectfully submit that no new matter is being introduced by way of this Amendment and requests that the foregoing Amendment to the specification be entered and made of record.

OBJECTIONS TO CLAIMS 1-4, 10, 11, 13, 17, 18, 19, 20, AND 21

The Examiner objected to Claims 1-4, 10, 11, 13, 17, 18, 19, 20, and 21 due to informalities. The specific objections made by the Examiner and Applicants response to these objections are discussed below.

In particular, the Examiner objected to Claim 1, lines 13 and 18, as having insufficient antecedent basis for “the axial support”. Furthermore, the Examiner objected to Claim 1 as unclear with respect to “proximal” and “position”. In response, Applicants have amended Claim 1 to comprise an “axial support member” and have

added the phrase "at a" between "patient" and "position" to clarify the phrase "proximal position".

The Examiner also objected to Claims 2 and 3, line 1 as having insufficient antecedent basis for "said axial support". In response, Applicants have amended Claim 1 to provide antecedent basis for the "axial support member" in Claims 2 and 3.

The Examiner objected to Claim 4, line 2 as requiring that --a-- should be inserted between "comprises" and "measurement". In response, Applicants have amended Claim 4 by adding the word "a" to Claim 4, line 2, between the words "comprises" and "measurement".

The Examiner objected to Claim 10, line 1, as it requires the word "comprise" to be in the plural form. In response, Applicants have cancelled Claim 10.

The Examiner objected to Claim 11, line 2, as having insufficient antecedent basis for "said axial". In response, Applicants have amended Claim 8, from which Claim 11 depends, to provide sufficient antecedent basis for "said axial support member".

The Examiner objected to Claim 13, line 1, as requiring the word "wherein" between the words "Claim 12" and "the distal". In response, Applicants have amended Claim 13 by inserting "wherein" between "Claim 12" and "the distal".

The Examiner objected to Claims 17 and 18, at line 3 in each claim, as requiring that the word "comprising" be replaced with "comprises". In response, Applicants have amended Claims 17 and 18 by replacing "comprising" with "comprises".

The Examiner objected to Claim 19 being dependent on itself. In response, Applicants have corrected the dependency of Claim 19 to depend from Claim 18.

The Examiner objected to Claim 20, line 1, as having insufficient antecedent basis for "the axial support". In response, Applicants have amended Claim 18, from which Claim 20 depends, to provide sufficient antecedent basis for "the axial support member".

The Examiner objected to Claim 21 as requiring that "the proximal support mechanism" be amended to "the proximal support means" to provide adequate antecedent basis. In response, Applicants have amended Claim 21 by replacing "mechanism" with "member". Applicants have further amended Claim 12, from which Claim 21 depends, to rename the "axial support means" to read "axial support member".

Applicant respectfully requests the Examiner to withdraw the objection to Claims 1, 2, 3, 4, 10, 11, 13, 17, 18, 19, 20, and 21 due to informalities.

REJECTION OF CLAIMS 12-14 and 17-20 UNDER 35 U.S.C. § 102(b)

The Examiner rejected Claims 12, 13, 14, 17, 18, 19 and 20 under 35 U.S.C. § 102(b) as being anticipated by Erickson. In view of the following discussion, Applicant respectfully traverses this rejection.

Claim 12

Erickson appears to disclose an apparatus adapted for generating traction on a limb having a bone fracture. The apparatus appears to comprise a flexible stretcher, cot or bed, all of which have side rails, and a traction splint, which attaches to the side rails and extends beyond the foot strap. See Figures 1 and 2. Erickson does not disclose the distal support located at the distal end of the traction-generating device, such that the traction generating device does not extend beyond the patient's limb. Furthermore, Erickson does not disclose a rigid backboard having slots and no side rails.

In contrast in an embodiment of the invention, the proximal support means, the distal support member, and the axial support form a traction generating device that is releasably attached to slots in the backboard such that a distance between the proximal support means and the distal support member is fixed, and the distal support member is located substantially at the distal end of the traction generating device such that the traction generating device does not extend distally beyond the distal support member.

Because the reference cited by the Examiner does not disclose, teach or suggest the use of a backboard, a traction generating device that that is releasably affixed to slots in the backboard, and a traction generating device wherein the distal support is substantially the distal most portion of the traction generating device, Applicants assert that Claim 12 is not anticipated Erickson. Applicant therefore respectfully submits that Claim 12 is patentably distinguished over the cited references and Applicant respectfully requests allowance of Claim 12.

Claims 13, 14, and 17-20

Claims 13, 14, and 17-20, which depend from Claim 12, are believed to be patentable for the same reasons articulated above with respect to Claim 12, and because of the additional features recited therein.

REJECTION OF CLAIMS 1-4 and 6-11 UNDER 35 U.S.C. § 103(a)

The Examiner rejected Claims 1-4 and 6-11 under 35 U.S.C. § 103(a) as being unpatentable over the Whitehead et al. patent in view of the Clyburn et al. patent.

Claims 1 and 8

Whitehead appears to teach a traction splint comprising double axial supports which extend beyond the foot retaining device. See Figures 1-3. Whitehead does not disclose a distal support located at the distal end of the traction-generating device, such that the traction generating device does not extend beyond the patient's limb.

Clyburn appears to teach an external fixator made of 33% glass fiber reinforced resin. Clyburn also does not disclose a distal support located at the distal end of the traction-generating device, such that the traction generating device does not extend beyond the patient's limb.

In contrast, in an embodiment, the telescoping splint or traction generating device does not distally extend beyond the distal limb support member or distal support member.

Because the references cited by the Examiner do not disclose, teach or suggest the use of the telescoping splint or traction generating device which does not distally extend beyond the distal limb support member or distal support member, Applicants assert that Claims 1 and 8 are not obvious in view of Whitehead and Clyburn. Applicants therefore respectfully submit that Claims 1 and 8 are patentably distinguished over the cited references and Applicant respectfully requests allowance of Claims 1 and 8.

Claims 2-4, 6, 7, and 9-11

Claims 2-4, 6, and 7, which depend from Claim 1, and Claims 9-11, which depend from Claim 8, are believed to be patentable for the same reasons articulated

above with respect to Claims 1 and 8, respectively, and because of the additional features recited therein.

REJECTION OF CLAIMS 5, 15, 16, and 21 UNDER 35 U.S.C. § 103(a)

The Examiner rejected Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over the Whitehead et al. patent in view of the Clyburn et al. patent, and further in view of the Slishman patent.

The Examiner rejected Claims 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over the Erickson patent in view of the Clyburn et al patent. The Examiner further rejected Claim 21 under 35 U.S.C. § 103(a) as being unpatentable over the Erickson patent in view of the Chitwood patent.

Claim 5, which depends from Claim 1, and Claims 15, 16, and 21, which depend from Claim 12, are believed to be patentable for the same reasons articulated above with respect to Claim 1 and 12, respectively, and because of the additional features recited therein.

NEW CLAIM

New Claim 22 depends from amended Claim 8 and is believed to be allowable for the same reasons articulated above with respect to Claim 8, and because of the additional features recited therein.

New Claim 22 has been added to more fully define the Applicant's invention and are believed to be fully distinguished over the prior art of record.

AUTHORIZATION OF ASSIGNEE

Jay A. Lenker, CEO, an officer of Damage Control Technologies, Inc, which is the assignee of U.S. Patent Application No. 10/764,123 authorizes an inventor, Jay A. Lenker, to respond to the outstanding Office Action.

CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested.

If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved.

Respectfully submitted,

Dated: 7 May 2005

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